

**EASTON AREA JOINT SEWER AUTHORITY
COMMONWEALTH OF PENNSYLVANIA**

RESOLUTION NO. 2023-05-15A

**Resolution Adopting A First Amended And Restated Industrial
Pretreatment Fees And Charges– Cost Recovery Policy**

RESOLVED, that this Resolution amends and restates Easton Area Joint Sewer Authority (the "Authority") Resolution 2006-08-21, which addressed certain cost recovery issues, as supplemented and/or amended by Authority Resolutions 2010-7-19-B and 2022-05-16A.

RESOLVED, that the Easton Area Joint Sewer Authority hereby approves a cost recovery policy regarding non-payment of Industrial Pretreatment Program ("IPP") fees and charges, as follows:

I. Industrial Pretreatment Cost Recovery Fees and Charges Covered

The Industrial Pretreatment Cost Recovery fees and charges covered by this policy shall include, without limitation, industrial user fees, permit application fees, routine sampling fees, resampling fees, laboratory analysis charges, surcharges, and fines and penalties.

II. Surcharge Formula

In order to determine the additional charge for industrial wastes with strength greater than that of domestic sewage, the surcharge formula as adopted by the Authority from time to time shall be used.

III. Billing Frequency

A. The industrial waste surcharge, industrial user fees, routine sampling fees, resampling fees, and laboratory analysis charges shall be billed quarterly.

B. Permit application fees and fines and penalties imposed for violations of the Authority's Rules and Regulations shall be billed as they become due.

IV. Calculation of Cost Recovery Amounts Owed by Industrial Users

The Easton Area Joint Sewer Authority shall cause the water meter of each industrial user where the waste water flow determination is based upon metered water consumption, and the waste water meter where the waste water flow determination is based upon waste water flow measurement, to be read on a quarterly basis, and the Authority shall cause industrial waste surcharge bills to be mailed to the industrial users following each reading:

1. The Authority shall cause periodic sampling of the waste water discharge by each industrial user in accordance with the Authority's Rules and Regulations.

2. Bills for industrial waste surcharge and all other Industrial Pretreatment Program fees and charges shall be mailed to the user's address specified on the Industrial Waste Permit. Failure to receive a bill as a result of incorrect address or otherwise shall not excuse nonpayment of charges or extend the time for payment.

3. Payment shall be due net thirty (30) days. A penalty of five (5%) percent shall be added to bills not paid within thirty (30) days of the date of bill. If the bill is not paid within sixty (60) days, a second penalty of five (5%) percent shall be added to the amount of the bill.

4. The Authority may, but shall not be required to, send a Notice of Non-Payment forty-five (45) days after the date of the bill, if the bill has not been paid.

5. Commencing with the sixty-first (61st) day of the unpaid bill, there shall be a carrying charge of one and one-half (1-1/2%) percent per month or fraction of a month of the outstanding balance, added to the amount of the bill.

6. If a bill is not paid within sixty (60) days of the date of the bill, it shall be considered delinquent, and further action, including, without limitation, filing of a municipal lien, collection litigation, and permit revocation, may be taken. In addition, failure to pay within sixty (60) days from the date of the bill shall constitute a violation of the Authority's Rules and Regulations.

V. Revocation of IPP Permit for Non-Payment of Surcharge Bill

1. If an industrial user holding a Discharge Permit fails to pay a cost recovery invoice within sixty (60) days from date of issuance of such bill, the Authority shall cause to be sent to such user, by certified mail, a written notice of intent to revoke the user's pretreatment Discharge Permit after thirty (30) days from the date of intent to revoke notice

2. Within thirty (30) days from the date of the notice, the industrial user must either: (a) pay the invoice in full, including all applicable penalties and interest, or (b) appeal the administrative determination as to the validity of the bill and/or the amount to the invoice owed.

3. All appeals will be heard under the rules of evidence and procedures applicable under the Local Agency Law.

4. All appeals will be heard by a hearing board consisting of three Authority Board members designated by the Authority Chairman.

5. The Hearing Board shall prepare a proposed adjudication for adoption by the Authority Board.

6. If the Industrial User is found to be in violation of the Authority's Rules and Regulations for failure to pay cost recovery invoices within the time allowed by this Resolution, the Authority shall immediately, subject to the appeal rights set forth in Paragraph 7, revoke the User's Discharge Permit.

7. An Industrial User shall have thirty (30) days from the date of the Authority Board's Adjudication to appeal the Authority's decision to the Court of Common Pleas of Northampton County. In order to perfect such appeal, the Industrial User must deposit 120% of the cost recovery fees and charges due, as determined by the Authority, with the Authority Secretary, in escrow, to perfect the appeal.

8. If no appeal is timely perfected, the Industrial User permit shall be immediately revoked.

VI. Recovery of Authority Attorney's Fees and Expense

A delinquent industrial user shall reimburse the Authority for all of the Authority's reasonable attorney fees and expenses, and any litigation costs, including without limitation, expert witness expense, beginning from the point that the delinquent account is referred to counsel for collection or other action, independent of whether or when actual litigation is commenced. This reimbursement requirement shall apply to all efforts by the Authority's attorney to collect the delinquent IPP fees and charges, including, without limitation, the filing of a municipal lien, collection litigation and permit revocation. The industrial user's reimbursement obligation shall be considered a condition of the industrial user's permit. The industrial user agrees to

reimburse the Authority for such costs, and to indemnify the Authority against any loss as result of such costs. The industrial user shall be considered delinquent in its IPP fees and charges until all such costs are paid.

VII. Estimated Payment Requirement for Serial Delinquent Payment or Non-Payment

A. Notwithstanding any other provision in this Cost Recovery Policy, the Authority may require an industrial user to make estimated payments for service in advance of a service quarter, under the circumstances described herein. The Authority's right to require estimated payments is in addition to all other remedies and rights that the Authority has under the Policy, or in law or equity, for non-payment or late payment, including without limitation termination of service and revocation of a user's IPP Permit. The Authority's election to require estimated payments shall in no way prevent the Authority's option to use other enforcement remedies.

B. If an industrial user fails to make payment for a service quarter within 60 days of the date of billing in two consecutive quarters (ie, the industrial user allows its account to become delinquent two consecutive service quarters), the Authority may require the industrial user to make an estimated payment for service in advance of each quarter, plus a 2% administrative fee. Estimated charges will be based on the industrial user's average quarterly bill for the prior 12 months (4 quarters). The industrial user must pay the estimated charge at least 10 days in advance of the next service quarter. Subsequent to the service quarter, the Authority will send the industrial user a final bill for the service quarter in accordance with the Authority's regular billing practices. The industrial user will receive a credit for the estimated payment on its final bill.

C. Once the requirement for estimated payments has been triggered, a user shall continue to make estimated quarterly payments until and unless the Authority determines estimated payments are no longer necessary to protect the Authority's interests.

VIII. Miscellaneous

A. All Resolutions or parts of Resolutions inconsistent with this Resolution are hereby amended and made consistent herewith insofar, but only insofar, as the same are inconsistent herewith. To the extent the provisions of this Resolution are the same or similar in substance to Resolution provisions in force immediately prior to adoption of this Resolution, the provisions of this Resolution are intended as a continuation of such prior provisions and not as new provisions. The provisions of this Resolution shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any Resolution in force prior to adoption of this Resolution.

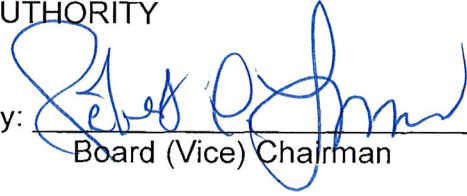
B. This Resolution shall be effective immediately.

C. If any section, subsection, sentence, clause or phrase of this Resolution is, for any reason, held to be invalid, illegal or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution.

ADOPTED this 15th day of May, 2023.

EASTON AREA JOINT SEWER
AUTHORITY

By:



Robert Johnson

Board (Vice) Chairman



Stephen Rigel

, Secretary

(SEAL)